

Public Participation in Boards, Commissions and Advisory Bodies

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Mr. Chairman and Members of the Little Hoover Commission:

The League of Women Voters of California supports active participation by the public in state and local government. This entails the right and responsibility of the public to be informed, to be heard, and to be involved not only in, but beyond elections. It requires that officials make decisions openly and that they provide broadly publicized, convenient opportunities for participation by the public in the process.

Whatever the issue, the League believes that efficient and economical government requires:

- P competent personnel
- P clear assignment of responsibilities
- P adequate financing
- P coordination among levels of government
- P effective enforcement
- P well-defined channels for citizen input and review.

It is because of our strong support for citizen participation that we are happy to comment on the value of California's boards and commissions for ensuring public input and accountability in government.

Evaluating boards and commissions

We heartily endorse the ongoing evaluation of what works in government and what does not. With respect to boards and commissions, the California Performance Review (CPR) has highlighted the fact that there are some, perhaps not a small number, whose continued existence cannot be justified. For others a critical look may illustrate the value to the public of the existing structure. For still others, evaluation may lead to improvements in structure and function.

It is important to keep in mind the values and standards by which any particular system of government organization is judged. The CPR advocates regular evaluation of the efficiency and cost effectiveness of boards and commissions for "legitimacy, accountability, customer service, innovation and resourcefulness." The Legislative Analyst's Office (LAO) describes the CPR as emphasizing a transition toward executive program management rather than the use of independent boards; similarly, others have suggested that the CPR management goal appears to be a shift to a decision-making structure with more centralized power.

The CPR Commission has noted that boards and commissions enable public participation and subject matter expertise in particular fields. It has recommended that they be evaluated using

criteria that include whether the entity serves a worthy state purpose; whether they are structured to ensure consistent application of law and development of regulations; whether independence is critical for operations, such as quasi-judicial or appellate responsibilities; whether appointment by agencies and departments is preferable; and whether the entity regulates public health and safety or enables the state to receive federal funds.

The LAO has considered the benefits and drawbacks regarding the use of independent boards and commissions in *An Initial Assessment of The California Performance Review* (August 27, 2004). On the plus side:

- P Independent boards can include experts in the policy field and offer a variety of policy perspectives.
- P They may offer more independent, forward-thinking proposals than might be typical from a state department.
- P Board meetings are more open to the public than the department decision-making process.
- P The legislature often has the ability to oversee a board's management through the nomination approval process. In other cases, the legislature has the authority to appoint board members directly.

Among the drawbacks of independent boards, the LAO points out:

- P Boards may cost more to operate, due to the salaries and associated costs of board members.
- P Another disadvantage pointed out by the LAO is that because they administer individual programs, boards have less flexibility than executive branch departments in varying the resources allocated to particular programs as the workload changes.
- P Finally, the LAO notes that when boards' program responsibilities overlap with state departments, coordination may present difficulties that is not present when programs all report to the same director under a single department.

LWVC assessment of the issues raised

The League believes that a thorough assessment of any board, commission, or similar entity should consider the potential benefits outlined by the LAO above. In many areas, public participation and independent analysis by board members and commissioners who are experts in their fields are important in formulating sound public policy. Many California environmental boards and commissions have international recognition as policy-setters and innovators.

We endorse the guiding principle of the CPR that government should be made more responsive and accessible to the people. In accord with that principle, many state and regional decision-making boards and commissions include representatives of different interest groups to provide balance. Often, they also bring government closer to the people, serving the function of making government as nearly "local" as practical. Examples of this in the natural resources area are the State Water Resources Control Board and the Regional Boards that address water quality issues. Also in this category are the Air Resources Board and the San Francisco Bay Conservation and Development Commission which provide an important function of balancing development interests and environmental concerns.

Boards and commission structures can be used to preserve independence when needed, such as quasi-judicial or appellate responsibilities. Among commissions with which the League is familiar, there are adjudicatory functions of the California Public Utilities Commission and the California Energy Commission that we feel should continue to be carried out by authorized commissioners, with the support of legal staff. Those roles cannot be subsumed within a large bureaucracy. A force-fit simply will not work.

As the Legislative Analyst points out, independent boards can offer a more open, transparent decision-making process than departments. We question whether the CPR's emphasis on transferring the functions of boards and commissions to executive branch agencies is a necessary component of accountability. In contrast to the CPR contention that "the line between the Governor and the performance of executive branch functions should be as straight as possible," we agree with others who say that accountability to the public can be well served when policy decisions are made openly by a board which represents a number of points of view, and following public input.

The public workshop process used by several boards and commissions has worked well to generate thoughtful public input. This should be encouraged as an alternative to hearings at which competing views are heard but in which there is no attempt to set up a discussion to seek solutions that benefit all parties. We particularly note the use of the workshop method by the California Energy Commission. In some executive branch departments, such as the Department of Toxic Substances Control, public outreach is also an important part of the culture. Frequent public workshops and hearings, with timely public notice, fact sheets, translations, etc., to facilitate public involvement, should be part of the enabling legislation or regulations under which any board, commission, or department operates.

Other means of bringing the public into the governmental process should be explored, such as the online dialogue about the California Master Plan for Education that was held in 2002 in conjunction with the Joint Legislative Committee developing the Master Plan.

The LAO lists legislative oversight as a benefit of the use of independent boards and commissions. In a more general sense, the force of partisan politics can be blunted by commissioners appointed by multiple entities, including the legislature, with fixed terms that may be staggered and carry over from one administration to the next.

Independence of boards and commissions is important. The frequency of review must be carefully set. Annual review, for example, could make them overly cautious, fearing the possibility of being disbanded.

An element that has not been given sufficient consideration in the CPR examination of boards and commissions is the need for adequate funding. Many boards and commissions suffer from the mismatch between the funding provided by state government and the mandates they must fulfill. A fair estimation of the efficiency and effectiveness of their programs, as well as of their

accessibility to the community, depends on the availability of funds appropriate to their needs.

The Legislative Analyst notes that the cost of an independent board may be greater than that of a department performing the same functions. While the difference in cost is a very small component of state spending, attention to this cost is a worthwhile principle. Various observers have noted that some boards serve as a refuge for politically-connected appointees who may lack appropriate qualifications and who fail to make the time commitment needed to direct state policies. We endorse the proposal of the CPR Commission that compensation and per diem payments of board members and commissioners should be related to actual time spent working.

We also agree with the CPR Commission that if a board or commission has outlived its usefulness, it should be terminated. A simple measure could be that a board that hasn't met in five years ought to be eliminated.

Conclusion

The League of Women Voters of California supports a continuing effort to find the most productive ways in which government can serve the people. As in all public affairs, citizen input and review are essential to the evaluation of government structure and function.

We have outlined some points to consider with respect to the role of boards and commissions in effective, efficient governance. However, we agree with the LAO that reorganization of state government should occur only when problems with the current system are clearly defined and convincingly addressed by the proposals for change. In some cases, it is clear that a board should be eliminated and/or its functions consolidated with the work of an executive department. In others, the board may have been established because of a still-perceived need to give focus or emphasis to addressing an issue. In many instances more information about existing boards, their history and rationale, and the potential for public engagement in the issues involved will be needed before a final decision should be made on their existence.